THE HON'BLE SRI JUSTICE P.S.NARAYANA

Writ Petition No.24473 of 2006

DATE: 23rd November, 2006

Between :-

N.Hanumantha Rao .. Petitioner

And

The State of Andhra Pradesh

Rep. by its Principal Secretary,

Municipal Administration,

Secretariat Blgs, Hyderabad and another .. Respondents

THE HON'BLE SRI JUSTICE P.S.NARAYANA

Writ Petition No.24473 of 2006

ORDER:-

The matter is coming up for *admission.*

2. G.P. for General Administration takes notice on behalf of R.1. Sri Ghanta Rama Rao takes notice on behalf of R.2.

3. The present Writ Petition is filed for a Writ of Mandamus declaring the action of the 2nd respondent in issuing the notice No.UC/685/3/10/2006, dated 3-11-2006 directing the petitioner to remove the unauthorized construction in House bearing No.10-3-685/302, situated at P.S.Nagar, Mallepally, Hyderabad is contrary to under Section 452 and Section 636 of the Hyderabad Municipal Corporation Act illegal, arbitrary, unconstitutional and violative of the principles of natural justice and pass such other suitable orderfs.

4. Several factual details are narrated in paras 2 to 6 of the affidavit filed in support of the Writ Petition. It is stated that surprisingly the petitioner came to know on 17-11-2006 that the 2nd respondent issued notice dt. 3-11-2006 under Section 636 of the Hyderabad Municipal Corporation Act to the owner of 1st and 2nd floor of the

building directing them to remove projections of balcony of 1st and 2nd floor of the building and on reading the impugned notice, it is observed that the builder constructed the 3rd floor unauthorizedly and directed to remove the unauthorized constructions within three days from the date of receipt of the notice. Specific stand is taken that the petitioner had not received any notice either under Section 452 or under Section 636 of the Hyderabad Municipal Corporation Act so far. It is also stated that the notice contemplated under Section 452 of the Hyderabad Municipal Corporation Act would mandatory before issuance of notice under Section 636 of the Hyderabad Municipal Corporation Act. Several other factual details also had been narrated.

5. In view of the facts and circumstances, the impugned notice to be treated as show cause notice and the petitioner is permitted to file all his objections to the show cause notice within a period of two weeks from the date of receipt of this order and the 2nd respondent to consider such objections in accordance with law and further proceed if need be in the light of the objections which may be raised in this regard. It is needless to say that till a decision is taken in this regard, *status quo* as on today to be maintained.

6. The Writ Petition is disposed of accordingly. No order as to costs.

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Justice P.S.Narayana

23rd November, 2006

smr